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October 9, 1997

William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: **EX PARTE PRESENTATION - In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 - CC Docket No. 96-128 and Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation - CC Docket No. 91-35**

Dear Mr. Caton:

Paging Network, Inc. ("PageNet"), through its undersigned counsel, submits the attached materials for inclusion in the record in the above captioned proceeding. These materials -- recent press reports discussing the deregulation of local coin rates that took effect on October 7, 1997 -- provide further evidence that a "market-based" deregulated local coin rate will be no more than \$.25, rather than the \$.35 the FCC presumed.

In the *Payphone Orders*, the Commission presumed that a deregulated local coin rate would equal \$.35, based upon an RBOC Coalition *ex parte* submission which stated that the prevailing rate in four rural western states that had deregulated local coin rates was \$.35 per call. In the remand proceeding, a number of parties pointed out that the Commission ignored evidence that in two *other* states that also had deregulated local coin rates (Montana, South Dakota), the prevailing rate was \$.25 per call. Furthermore, several parties noted that in early 1997 NYNEX requested authority from the Massachusetts Department of Public Utilities for authority to increase its local coin rate to a "market" rate of \$.25 per call (which was supported by a cost study claiming that its local coin costs were 16.7 cents per payphone call).

Press reports of PSP pricing decisions from the last two days provide further support for the proposition that the prevailing deregulated local coin rate will be no higher than $.25 in the coming months or longer. The attached articles report that:

- GTE has no plans in either Virginia or Ohio to increase its local coin rate.
- Frontier sees "no reason to raise prices" at this time.
- Bell Atlantic and Ameritech (in Ohio) are evaluating their response, but have not yet made any decision whether to raise payphone rates above $.25.
- NYNEX has voluntarily agreed to cap payphone rates at $.25 until 2002. The New York PSC has announced that it believes NYNEX remains bound by this voluntary commitment.

In addition, long term location contracts, such as at airports and other locations, likely will hold payphone rates at $.25 per call, at least for the near future. *See* "Pay Phone Companies Allowed to Raise Prices; No Immediate Increases Expected Locally," *Washington Post*, Oct. 7, 1997 at D3 (Washington Metro contract will keep payphone rates at $.25 until October 1998; Washington airport authority will be "very reluctant to go above a quarter" when contract expires next year).

Therefore, PageNet submits that, if the Commission intends to use a deregulated local coin rate as part of its analysis, it would be arbitrary and capricious to use any rate other than $.25 per call.

In accordance with the Commission's rules, 47 C.F.R. § 1.1206(a)-(b), we are filing an original and two copies of this *ex parte* proceeding for inclusion in the public record. Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,

Judith St. Ledger-Roty

Judith St. Ledger-Roty

cc: Richard Metzger
John Muleta
Bob Spangler
Tom Boasberg
Rudy Baca
Jim Casserly
Kathy Franco

Jnion Case

Boosted Rival Industry

failure of small-company credit unions, the federal regulatory agency began allowing credit unions to accept groups of members in different companies and locations, as long as each new group that was added had its own "common bond."

Acting Solicitor General Seth P. Waxman, defending regulators' interpretation of the act, told the justices yesterday that Congress's overriding interest in the 1934 law was "strong and stable" credit unions that would help people with limited means get loans. By allowing many employers to band together, the government contends, credit union services reach businesses with too few employees to support a credit union by themselves. It also makes the industry stronger, because any single credit union becomes less dependent on the fortunes of a particular company or industry.

Before the justices, Waxman spent much of his time arguing that banks don't have a legal right to sue under the law because Congress did not intend to protect—or to harm—banks' interest with the "common bond" requirement.

He said banks in the 1930s were ignoring the lower-to-middle-income people whom Congress wanted to help serve. John G. Roberts Jr., who argued on behalf of the AT&T Federal Credit Union yesterday, endorsed that interpretation.

The First National Bank and Trust Co. of North Carolina, the lead challenger in the case, contended that the law should be taken at its face value, requiring a "common bond" among all members, not a common bond among small member groups.

"Congressional intent is clear," said bank lawyer Michael S. Helfer, countering government arguments that the law at issue is ambiguous and that the court should defer to federal regulators. He asked the court to affirm a ruling by the D.C. Circuit Court of Appeals requiring all occupational credit union members to have a common occupational bond.

The justices spent most of the hour yesterday focused on whether Congress intended to affect banks in the legislation and whether they have legal "standing" to sue. While majority sentiment was not clear, Justice Anthony M. Kennedy said it would be a strange result if the group hurt most by a law today was not able to challenge it. A ruling in the case, *National Credit Union Administration v. First National Bank & Trust*, will be handed down sometime in the coming months.

to Launch Next Fall

said Thomas Middelhoff, a top Bertelsmann executive who sits on AOL's board. He said AOL's European venture, jointly operated by Bertelsmann, has grown faster than expected and now has about 700,000 subscribers.

AOL hopes that Bertelsmann, which owns about 5 percent of AOL, can exploit the inroads it has made in the Australian market, where it operates book and music clubs.

The venture is expected to face competition from local Internet providers; from Telstra, the country's largest telephone company; and from other online services, including the Microsoft Network.

The CompuServe online service, whose members AOL acquired last month, has 25,000 subscribers in Australia, Case said. He said AOL does not plan to convert those users to the new service.

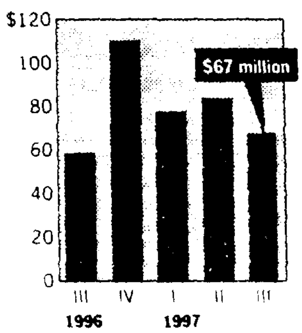
FOR MORE INFORMATION

For recent Post coverage of AOL, including an article about its new "channel" design, click on the above symbol on the front page of The Post's Web site at http://www.washingtonpost.com

LOCAL EARNINGS

QUARTERLY, IN MILLIONS

Marriott International's third-quarter income rose 16 percent from the same quarter last year.



SOURCE: Bloomberg News

THE WASHINGTON POST

Marriott International Profit Up 16 Percent

By Judith Evans
Washington Post Staff Writer

Marriott International Inc. of Bethesda reported yesterday that third-quarter net income rose 16 percent, to $67 million (49 cents a share) from $58 million (43 cents) for the same quarter a year earlier

Pay Phone Companies Allowed to Raise Prices

No Immediate Increases Expected Locally

By Mike Mills
Washington Post Staff Writer

Sometime soon, when you drop a quarter into a pay phone, you may find yourself asking, "Brother, can you spare a dime?"—or maybe even a second quarter.

Starting today, a new law kicks in that will allow pay phone companies to charge whatever they please for coin-operated local calls.

Major pay phone companies in the District, Maryland and Virginia say they have no immediate plans to increase prices.

But many industry analysts feel it's inevitable that over time, pay phone rates will vary widely across the area: It could cost 25 cents to use a phone on one corner, but 35 cents for one across town, or even half a buck. The law also allows pay phone companies to charge by the minute for local calls—something most state regulators had banned up until now.

States and the District always had put limits on what pay phone companies could charge for local calls. Like most states, Maryland, Virginia and the District had capped prices at 25 cents.

But in the spirit of competition and deregulation, the Telecommunications Act of 1996 ordered states to stop setting price limits and let the free market reign. Federal Communications Commission rules carrying out that part of the law take effect today.

Pay phone companies argue that their $4 billion-a-year industry has grown intensely competitive, with 500,000 of the nation's 2.1 million pay phones operated by about 2,000 independent companies. The rest are controlled by the dominant local phone company in any given area.

The money you put in is split between the pay phone company and the owners of the restaurant, bar, hotel, shopping mall or other facility where it's installed. Those establishments typically negotiate among several competing pay phone providers to get the highest possible commission. Commissions typically run about 30 percent, or $60 out of a $200 monthly take from a single phone.

But competition for proprietors does not mean competition for the calling public: When people need a pay phone, they usually don't shop among several choices, they just go to the nearest one.

That's at least part of the reason why there is so little talk about competition actually making pay phone prices go down. Another reason, according to the industry, is that many states have kept rates so low that companies lose money on calls and can't lower the price further. Vermont, until today, forced pay phone companies to charge no more than a dime for local calls.

Even when they're allowed to charge 25 cents, pay phone companies complain that they lose as much as a dime. But they stay in the business because they make nice profits by carrying long-distance calls.

Major Washington area pay phone companies say that they're taking a wait-and-see stance on rates. Bell Atlantic Corp., which operates a majority of the area's pay phones, has "no announcement to make as of tomorrow when the regulations change," spokesman Jim Smith said yesterday. "We're in the process of analyzing the very complex markets we serve."

"We don't have any immediate plans to change current pricing, but I'm sure it will be something we continue to look at," said John Wallace, spokesman for GTE Corp., which has 4,000 pay phones throughout Virginia.

Owners of the facilities in which the phones are installed also can influence rates. When the contract under which 952 pay phones operate at National and Washington Dulles International airports is renegotiated next August, the rate will be up for grabs.

But "we would be very reluctant to go above a quarter, unless the entire industry went to 35 cents," said Terry Dorrington, business manager of the Metropolitan Washington Airports Authority. Bell Atlantic and Kellee Communications Inc., a small pay phone company based in the District, hold the airports' pay phone contract.

Metro Transit Authority spokeswoman Leona Agouridis said rates for the 1,066 pay phones in Metro's system will remain unchanged at least until Metro's contract with Bell Atlantic expires on Oct. 31, 1998.

But critics already are predicting higher rates will come sooner or later.

New local coin phone charges of 50 cents "easily could be a possibility," said Debra Berlyn, director of the Competition Policy Institute, a lobbying group partly funded by the long-distance industry. "Anything would be possible, particularly in areas where people are captive, like airports, lobbies of buildings and hotels."

"If there is widespread activity of increasing pay phone prices, we could see a rather significant consumer revolt," predicted Alan Wickham of the Virginia State Corporation Commission.

The Washington Post, Tuesday

Pay phone costs deregulated

■ FCC lifts rules, but in New York NYNEX and Frontier will keep the basic local call rate at a quarter.

THE ASSOCIATED PRESS

WASHINGTON — Keep your change handy — the price of a local pay phone call could be going up.

Federal Communications Commission rules permitting pay phone owners to charge whatever they want for local calls went into effect yesterday.

The provisions, deregulating local pay phone rates, implement a 1996 law that lifted decades-old regulations on the telecommunications industry.

The FCC has argued that competition will keep a check on rates. But consumer groups predict that deregulation will cause pay phone prices to go up about 40 percent, a dime more for a call that now costs a quarter.

Historically, most state regulators have capped pay phone rates, usually at 25 cents a call.

In New York, NYNEX, the dominant telephone company, is bound by an agreement with the state to charge no more than 25 cents for a local, three-minute pay phone call through 2002, state utility regulators said yesterday.

Though its charges have become deregulated, Frontier, the state's second-largest phone company said its pay phones should cost a quarter for some time.

"We see at this point in time no reason to raise prices," Frontier Corp. spokesman Randall Simonetti said yesterday.

The FCC deregulation does not affect the NYNEX agreement the state made in 1995, according to the state Public Service Commission.

That 7-year deal froze some NYNEX charges, such as for pay phones, and rolled back others.

In return, the company was authorized to begin offering long distance service nationwide and to develop other business ventures.

NYNEX has become Bell Atlantic under a merger which became final earlier this year.

But Bell Atlantic is bound to stand by the terms of the deal New York state made with NYNEX in 1995.

About 150,000 of the state's 200,000 pay phones are operated by Bell Atlantic, according to the Public Service Commission.

The PSC said it tried, unsuccessfully, to sue the Federal Communications Commission earlier this year to fight the deregulation of pay phone rates which would affect the 50,000 non-Bell Atlantic phones in service.

The PSC argued that under a deregulated system, the owner of pay phones in more convenient, high-traffic locations will be able to charge more and customers will have to pay the price.

Seven states have deregulated them, the FCC said. In five, Michigan, Iowa, Nebraska, North Dakota and Wyoming, the price already is 35 cents a call. In the other two, Montana and South Dakota, it is 25 cents. ❑

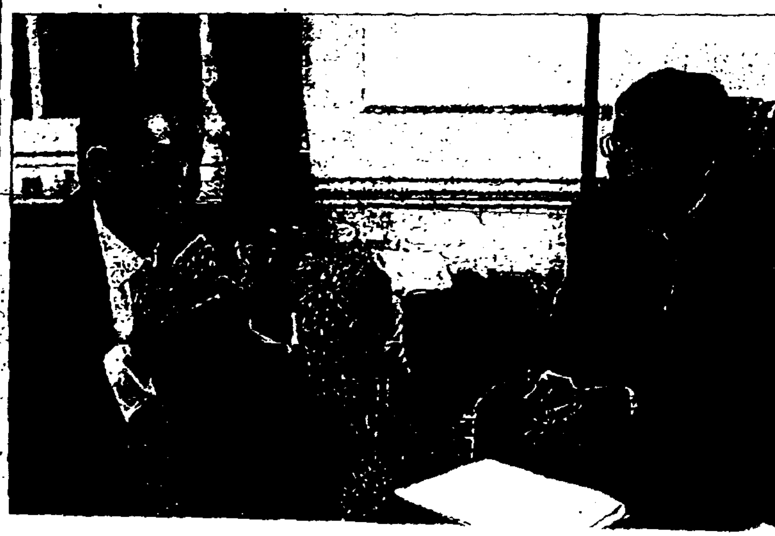
Wal-Mart to build, expand, about 185 stores in year

BLOOMBERG NEWS

BENTONVILLE, Ark. — Wal-Mart Stores Inc. said yesterday it will open about 185 stores in the next fiscal year in a plan to boost merchandise and food sales.

The Bentonville, Ark-based company said the openings will in-

LONDON CALLING ON GATES FOR ADVICE



Kodak

FROM PAGE 12D

efficiency or product quality.

"Assuredly they've got to do *something* . . . to make themselves more efficient," said Schroder & Co. analyst Michael W. Ellmann. "They're just not (saying) how much more efficient."

Managing production by product *category* makes sense, said Charles S. Brown, assistant general manager of the new organization. For instance, if Kodak makes film in three different factories, at budget time it's easier to decide which factory merits the biggest share of the money available for new equipment. Since Kodak is trying to ratchet back its growth in

and still make money. By boosting efficiency, the company would be able to design trend-setting photography products and get them into the marketplace before rivals roll out similar offerings.

Kodak has made progress in quality and efficiency, but apparently still has a long way to go. An important mantra espoused by Chief Executive George Fisher is "10-X" improvements in quality and the time it takes to get a product from the research labs to the marketplace — in essence, an annual 54 percent improvement in productivity.

Though pockets of Kodak have even exceeded that objective, the company on average has not — for instance, processes and products improved 20.2 percent in 1995, according to Kodak's annual report.

12TH STORY of Level 1 printed in FULL format.

The Plain Dealer

October 8, 1997 Wednesday, FINAL / ALL

SECTION: BUSINESS; Pg. 2C

LENGTH: 621 words

HEADLINE: PHONETEL RAISING ITS PAY-**TELEPHONE** RATES

BYLINE: FROM STAFF REPORTS

BODY:

PhoneTel Technologies Inc. of Cleveland is raising rates on the 1,670 pay phones it has in Ohio, now that the Federal Communications Commission has deregulated coin-operated **telephones.** "In Ohio, you're going to see an **increase** in the coin rate similar to that you've seen in other states which have seen deregulation," said Tammy L. Martin, chief administrative officer. In Michigan, for example, rates have increased to 35 cents a call. Martin said PhoneTel hasn't raised its rates since the 1980s, and hasn't been able to offset cost **increases.** Ameritech Corp. spokeswoman Kim Norris said the company hasn't made any decision on rates. GTE Corp. spokeswoman Theresa Lane said it did not have any immediate plans to **increase** pay-phone charges in Ohio.

AMERITECH **CHANGES** ADS

Ameritech Corp. is launching a new ad campaign highlighting "the strong relationship between Ameritech's customers and its employees." The new campaign, which will run in Cleveland and 20 other cities in the five-state Ameritech area, is the first from its new agency, Ammirati, Puris and Lintas. "In a world of technology, people make the difference," is the new campaign's theme. It replaces the one Ameritech launched in 1993 ("Your link to better communications"), the same year the company started using the Ameritech name in Ohio and other states for its business units. "What we achieved with the previous campaign was customer recognition; what we will achieve with the new campaign is customer preference," said Joan Walker, senior vice president of corporate communications.

MORTGAGE JOB TRAINING

Cuyahoga Community College has started a mortgage-finance program aimed at promoting diversity in the mortgage and housing industry, supported with a $595,000 grant by the Fannie Mae Foundation. Thirty-five students are enrolled in the program, which will prepare them for positions in mortgage-loan origination and administration, secondary mortgage marketing, regulatory compliance and homeownership counseling. The curriculum, developed with the help of a local advisory committee, will include internships, lectures by industry experts and the chance to shadow industry employees in their jobs. The program offers a two-year Associate of Applied Business degree in mortgage finance and certificate programs.

J.P. MORGAN HIRED

National Auto Credit Inc. said it hired J.P. Morgan Securities Inc. to help examine "strategic alternatives," including the sale of the car-loan company. The Solon-based company is considering a sale to "maximize shareholder value," Sam J. Frankino, the company's chairman and majority shareholder said in a statement. The company previously said it planned to explore its strategic alternatives. National Auto provides loans to buyers of used cars who have difficulty borrowing money elsewhere. It offers loans through a network of more than 2,100 dealers.

KIRTLAND SELLS ESI

Willoughby-based Kirtland Capital Partners has entered into a definitive agreement to sell its interest in ESI Securities Co. to the Bank of New York Co. Terms were not disclosed, but the transaction is expected to close in November. ESI Securities Co. is jointly owned by Kirtland Capital Partners, a venture-capital company, and ESI Management. New York-based ESI Securities Co. specializes in the block trading of stock - the buying or selling of large numbers of shares. ESI serves financial institutions including investment managers, mutual funds, bank trust departments and insurance companies in 20 countries worldwide. Kirtland Capital Partners invested in ESI in January 1994. The Bank of New York Co. is one of the largest bank holding companies in the United States with assets of $62 billion as of June 30.

LANGUAGE: ENGLISH

COLUMN: LOCAL TICKER

LOAD-DATE: October 9, 1997

5TH STORY of Level 1 printed in FULL format.

Daily News (New York)

October 08, 1997, Wednesday

SECTION: News; Pg. 3

LENGTH: 323 words

HEADLINE: THE BELL MAY WRING 10 MORE AT BOOTH

BYLINE: By ALAN MIRABELLA and HELEN KENNEDY With News Wire Services

BODY:

A call from a phone booth soon may cost a dime an extra dime.

New rules deregulating the $ 4 billion-a-year pay phone industry took effect yesterday, and experts say that spells the beginning of the end of the 25-cent call.

Bell Atlantic, formerly NYNEX, which operates most of New York's pay phones, said the company hadn't yet decided to raise prices but hinted it was inevitable.

"[When anything] has been at the same price for more than a decade, there has got to be upward pressure," said Bell Atlantic spokesman Jim Smith. "But we haven't decided."

Pay phones in New York City jumped from a dime to a quarter in 1984.

The new Federal Communications Commission rules, set in the 1996 Telecommunications Act, allow market forces to set pay **phone rates** instead of letting the state impose a cap.

"Pay phone companies now are free to charge whatever the market will bear," said state Public Service Commission spokesman Dave Flanagan.

Robert Ceisler, executive director of the New York Citizens Utility Board, nonprofit watchdog group, said the new rules will hit consumers in the **change** purse.

"Consumers have federal and state government to blame for this," Ceisler said.

Any New York price **hike** will be led by Bell Atlantic. The PSC estimates there are 200,000 pay phones in the state, 150,000 of which are owned and operated by Bell Atlantic.

But analysts said Bell Atlantic was almost sure to **hike** prices as soon as possible, probably to 35 cents from the quarter now charged by most of the nation's 2.1 million pay phones.

Seven states have already deregulated their pay phones. In five Michigan, Iowa, Nebraska, North Dakota and Wyoming the price of a call is already 35 cents.

Vince Sandusky, president of the American Public Communications Council, a trade group, said it was time for a rate **hike.** The industry estimates it costs 32 to 35 cents to deliver a pay phone call.

LOAD-DATE: October 08, 1997